

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

PHIEDRA PATTON,

Plaintiff,

v.

Case Number 05-10268-BC  
Honorable Thomas L. Ludington

SBC AMERITECH,

Defendant.

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**ORDER DENYING WITHOUT PREJUDICE**  
**PLAINTIFF'S MOTION FOR VARIOUS RELIEF**

On June 16, 2005, Plaintiff Phiedra Patton ("Plaintiff") commenced this pro se action alleging that her former employer, Defendant SBC Ameritech ("Defendant"), discriminated against her on the basis of her race and disability. As documented in the Court's previous orders, Magistrate Judge Charles E. Binder issued a report and recommendation that the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(b). On January 16, 2007, this Court adopted the report and recommendation and entered judgment in favor of Defendant.

On November 1, 2007, Plaintiff filed a motion for relief from the Court's judgment pursuant to Federal Rule of Civil Procedure 60. Dkt. # 34. The Court denied Plaintiff's Rule 60 motion on December 10, 2007. Thereafter, Plaintiff filed various motions and "an objection to Court's order to deny [Plaintiff's] motion to reverse or overturn dismissal [sic] of civil case." The Court addressed Plaintiff's motions, but did not address the objection. Plaintiff also appealed the Court's order denying her Rule 60 motion to the Sixth Circuit Court of Appeals.

On May 2, 2008, the Sixth Circuit issued an order holding Plaintiff's appeal in abeyance. The Sixth Circuit concluded that Plaintiff's objection was, in fact, a motion for reconsideration.

Before proceeding with Plaintiff's appeal, the Sixth Circuit remanded the matter to this Court "for the limited purpose of ruling on the December 21, 2007 . . . motion." Dkt. # 45 at 2. On June 30, 2008, the Court issued an order denying Plaintiff's objection [Dkt. # 38], construed as a motion for reconsideration.

On June 30, 2008, Plaintiff filed a motion seeking the Court to recuse itself because of bias and for a continuance to "review docket entries." Dkt. # 49 at 3 (*citing* E.D. Mich. LR 40.2). The Court lacks jurisdiction to substantively address Plaintiff's motion. "The traditional rule is that a timely appeal divests the district court of jurisdiction to reconsider its judgment until the case is remanded by the Court of Appeals." *Dunham v. United States*, 486 F.3d 931, 935 (6th Cir. 2007). Plaintiff has already appealed the Court's December 10, 2007 order. The Sixth Circuit remanded the matter to this Court for the "limited purpose" of resolving Plaintiff's December 21, 2007 objection. When the Court issued an order resolving Plaintiff's objection, it ceded all jurisdiction to the Sixth Circuit. Thus, the Court will deny without prejudice Plaintiff's motion.

Accordingly, it is **ORDERED** that Plaintiff's "motion to remove Judge Ludington from case 05-10268-BC and file for contingency for brief: need to request and review docket entries and motion to order Dkt. items 42 the courts [sic] answer to transcripts, etc." [Dkt. # 49] is **DENIED WITHOUT PREJUDICE**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: July 7, 2008

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 7, 2008

s/Tracy A. Jacobs

TRACY A. JACOBS